

**REMARKS/ARGUMENTS**

Claims 1, 2, 4-7, 9-28, 30, 31, and 34-64 were pending. By this amendment, claims 1, 7, 13, 24, 31, 42, 45, 48, and 59 are amended. Support for the amendments may be found in the specification and claims as originally filed. *See, e.g.*, Figs. 10 and 11A, reference numerals 111 and 118, and paragraphs [0051] through [0053]. No new matter is added. As a result, claims 1, 2, 4-7, 9-28, 30, 31, and 34-64 are pending and at issue.

**Claim Objections**

Applicants respectfully traverse the objection to claims 1, 13, and 24. Amendments to claims 1, 13, and 24 are made to address the issues raised in the office action. As a result, Applicants respectfully request withdrawal of the objections to claims 1, 13, and 24.

**35 U.S.C. § 102 Rejections**

Applicants respectfully traverse the rejection of claims 1, 5-7, 13, 14, 20, 22, 24, 27, 31, 35, 36, and 41 as anticipated by U.S. Patent No. 6,249,983 to Wright et al. (“Wright”). “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 628 (Fed. Cir. 1987). Each of claims 1, 5-7, 13, 14, 20, 22, 24, 27, 31, 35, 36, and 41 recites *inter alia*, a base for a light generating device or a leveling device, the base including a “first portion having a planar surface at least partially surrounded by a rim,” the rim having a pocket. For example, as seen in Figs. 10 and 11 of the instant application, the first portion 102 includes a planar surface 111 at least partially surrounded by a rim (generally identified by reference numeral 115), and the rim has a pocket 118 (generally identified by a “recess” 118) formed in one side of the rim and adjacent to the planar surface 111.

Wright fails to disclose or suggest a rim at least partially surrounding a planar surface, let alone a pocket formed in the rim. While Wright discloses a leveling apparatus for a laser level that includes a base having a sphere-shaped socket component 47 and a sphere-shaped ball device 49 mounted thereto, the sphere-shaped socket component 47, on which the leveling device rests, does not have planar surface surrounded by a rim having a pocket. *See* Fig. 25 of Wright. Even if the plane defined by reference numeral 111 in Fig. 25 of Wright is

considered a surface surrounded by a rim, the rim does not have a pocket of any sort, let alone a pocket that receives a portion of a light generating device. In fact, Wright discloses resting a leveling device on top of the sphere-shaped socket component 47, i.e., along the top of locking members 69 (*See* Wright, Fig. 12). These locking members 69 form a top of the Wright device and the level 11 simply rests along the top surface of the locking members 69. Thus Wright fails to disclose or suggest a base for a light generating device, the base including a “first portion having a planar surface at least partially surrounded by a rim,” the rim having a pocket, as is recited by each of claims 1, 5-7, 13, 14, 20, 22, 24, 27, 31, 35, 36, and 41. Therefore, none of claims 1, 5-7, 13, 14, 20, 22, 24, 27, 31, 35, 36, and 41 is anticipated by Wright.

Furthermore, one skilled in the art would not modify the Wright device by adding a rim to the alleged surface 111 because the Wright teaches resting the level 11 along the top of the Wright device, or securing the level with a bolt. Regardless, the level (e.g., torpedo level) extends outward, beyond the lateral boundaries of the top of the Wright device. *See* Figs. 7 and 12 of Wright. Thus, there is no need to add a rim with a pocket to the Wright device because the level would not engage such a pocket.

An advantage of the rim and pocket of the claimed device is that the rim and pocket allow for one-handed attachment and removal of the laser line generating device, or leveling device. As described in paragraph [0053], a user inserts a portion of the laser line generating device, or leveling device, into the pocket and then slides a bottom of the laser line generating device, or leveling device, against the planar surface. This attachment and removal process is very efficient and easy compared to attachment methods such as bolts.

### **35 U.S.C. § 103 Rejections**

The applicants respectfully traverse the rejection of claims 2, 4, 9-12, 15-19, 21, 23, 25, 26, 28, 30, 34, 37-40, and 42-64 as obvious over Wright in view of one or more of U.S. Patent No. 4,068,961 to Ebner et al. (“Ebner”); U.S. Patent No. 6,195,902 to Jan et al. (“Jan”); U.S. Patent No. 5,063,679 to Schwandt (“Schwandt”); U.S. Patent No. 6,569,521 to Sheridan et al. (“Sheridan”); U.S. Patent No. 1,153,760 to Butler (“Butler”); U.S. Patent No. 5,983,510 to Wu et al. (“Wu”); U.S. Patent No. 5,832,867 to Whicker Jr. (“Whicker”); U.S. Patent No. 4,829,676 to Waldron (“Waldron”); and U.S. Patent No. 6,009,630 to Rando

(“Rando”), collectively the “cited art.” To establish a *prima facie* case of obviousness, “the prior art reference (or references when combined) must teach or suggest all the claim limitations.” M.P.E.P. § 2143. In this case, the cited art fails to disclose or suggest all claim limitations. In particular, each of claims 2, 4, 9-12, 15-19, 21, 23, 25, 26, 28, 30, 34, 37-40, and 42-64 recites *inter alia*, a base for a light generating device or a leveling device, the base including a “first portion having a planar surface at least partially surrounded by a rim,” the rim having a pocket.

As shown above with respect to the § 102 rejections, Wright fails to disclose or suggest a base for a light generating device having a planar surface at least partially surrounded by a rim having a pocket. The cited art fails to cure this deficiency of Wright.

In particular, none of Jan, Sheridan, Butler, Whicker, Waldron and Rando discloses or suggests a base of any sort, let alone a base having a planar surface at least partially surrounded by a rim having a pocket, nor were any of Jan, Sheridan, Butler, Whicker, Waldron, and Rando cited for this element. Therefore, Jan, Sheridan, Butler, Whicker, Waldron, and Rando all fail to disclose or suggest a planar surface at least partially surrounded by rim having a pocket, as is recited by each of claims 2, 4, 9-12, 15-19, 21, 23, 25, 26, 28, 30, 34, 37-40, and 42-64.

Additionally, Ebner fails to disclose or suggest a planar surface surrounded by a rim of any sort, let alone a planar surface at least partially surrounded by a rim having a pocket. While Ebner discloses a swivel joint for mounting an object that provides movement in two orthogonal planes, wherein the swivel joint includes a swivel top 19 and a swivel bottom 21, Ebner fails to disclose or suggest a planar surface surrounded by a rim of any sort, let alone a planar surface at least partially surrounded by rim having a pocket. *See*, Ebner, Figs. 1-4. There is simply no planar surface surrounded by a rim on the Ebner device. Therefore, Ebner fails to disclose or suggest a planar surface at least partially surrounded by a rim having a pocket, as is recited by each of claims 2, 4, 9-12, 15-19, 21, 23, 25, 26, 28, 30, 34, 37-40, and 42-64.

Likewise, Schwandt fails to disclose or suggest a planar surface surrounded by a rim of any sort, let alone a planar surface at least partially surrounded by a rim having a pocket. While Schwandt discloses a leveling device for a bubble level that includes a base 28 having

a protractor securing portion 30 and a mounting portion 32, neither the protractor securing portion 30 nor the mounting portion 32 includes a planar surface surrounded by a rim, let alone a planar surface at least partially surrounded by a rim with a pocket. The Schwnadt device secures a bubble level to the protractor securing portion 30 with a securing member 34. Even if the T-shaped slot 36 (*See* Fig. 3 of Schwnadt) was considered to include a planar surface, there is no rim or pocket anywhere along the T-shaped slot 36. Moreover, one skilled in the art would not provide a rim with a pocket along the T-shaped slot 36 because the T-shaped slot 36 must allow for “sliding movement” of the protractor portion 12. *See*, Schwandt, col. 4, lines 4-12. Thus, Schwandt fails to disclose or suggest a planar surface at least partially surrounded by a rim having a pocket, as is recited by each of claims 2, 4, 9-12, 15-19, 21, 23, 25, 26, 28, 30; 34, 37-40, and 42-64.

Similarly, Wu fails to disclose or suggest a planar surface surrounded by a rim of any sort, let alone a planar surface at least partially surrounded by a rim having a pocket. While Wu discloses a laser leveling and angle calibrating instrument including a laser level 2 and a stand 1, the stand 1 does not include a planar surface surrounded by a rim of any sort, let alone surrounded by a rim having a pocket. In particular, the stand has a platform 14 for attaching the laser level 2 and the platform is attached to an adjusting block 13 through a pivot joint. *See* Wu, col. 2, lines 5-7. The platform 14 is planar, but not surrounded by a rim. *See*, Wu, Figs. 1, 9, and 11. Moreover, one of ordinary skill in the art would not include a rim on the platform because the laser level 2 is larger than the platform 14 and thus extends beyond the perimeter of the platform 14. Forming a rim on the platform would simply reduce the surface area in contact with the laser level 2, thus reducing the magnetic force between the platform 14 and magnets 221 in the laser level 2, thereby weakening the attachment of the laser level 2 to the platform 14. As a result, Wu fails to disclose or suggest a planar surface at least partially surrounded by a rim having a pocket, as is recited by each of claims 2, 4, 9-12, 15-19, 21, 23, 25, 26, 28, 30, 34, 37-40, and 42-64.

As shown above, none of the cited art, alone or in combination, discloses or suggests a base for a light generating device or a leveling device, the base including a “first portion having a planar surface at least partially surrounded by a rim,” the rim having a pocket, as is recited in each of the pending claims. Thus, none of the pending claims can be anticipated by

any of the cited art or rendered obvious by any combination thereof. Accordingly, the applicants respectfully request withdrawal of the rejection of the pending claims.

**Conclusion**

In light of the foregoing arguments, the enclosed Petition for a one month extension of time and required fee, the applicants respectfully request reconsideration and allowance of claims 1, 2, 4-7, 9-28, 30, 31, and 34-64.

If there are matters that can be discussed by telephone to further the prosecution of this application, the applicants respectfully request that the Examiner call its agent at the number listed below. If there are any additional fees or refunds required, the Commissioner is directed to charge or debit Deposit Account No. 13-2855 of Marshall, Gerstein & Borun LLP. A copy of this paper is enclosed herewith.

Respectfully submitted,

By:

  
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